

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA**

WILLIAM D. TURNER,

:
Plaintiff : Civil Action No.
4:18-CV-00361

v.

**JOHN E. WETZEL, Secretary of Corrections,
CORRECTION CARE SOLUTION, CARL
KELDIE, JOSEPH SILVA, Department of
Corrections Health Care Service Director, DR.
PAUL NOAL, DR. JAY COWAN, THE
DOC'S HEPATITIS C COMMITTEE, SCI
FRACKVILLE'S MA KUREN, VISOR MS.
KURAS, CHDA MS. HOLLY and SHARON
SELBI, RN ANY AND ALL INDIVIDUALS
OR ENTITIES RESPONSIBLE FOR MY
HEALTH CARE AND/OR DOC MEDICAL
POLICIES,**

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Defendants :

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**BRIEF IN OPPOSITION TO MOTION TO
COMPEL**

I. Statement of Facts

Plaintiff, a *pro se* prisoner, filed a Complaint in the Court of Common Pleas of Schuylkill County on January 19, 2018. The case was removed to this Court on February 13, 2018 (Doc 1).

Plaintiff had filed Interrogatories regarding the DOC Defendants when the matter was still in the Court of Common Pleas. The

undersigned wrote to the Plaintiff requesting that the document be converted to a federal document, as well as pointing out that the Interrogatories were not understandable (See Exhibit A).

On January 19, 2018, the Office of Attorney General received notice from the Pennsylvania State Police that an inmate placed a hazardous substance in the mail to a Trooper. As a result, procedures were taken in the Office of Attorney General to inspect mail coming from the DOC since this Office receives a great deal of mail from inmates. There have been delays in the attorneys' receipt of mail as a result of the new procedures. See Declaration of Garrett E. Speaks, Exhibit B. This case is one of them.

When the Motion to Compel was received, the undersigned did not yet have the Interrogatories, and so he wrote to the Plaintiff stating that the Interrogatories had not been served, and reiterating that the questions which were provided with his Motion to Compel were still unclear (Exhibit C). This letter was incorrect regarding the receipt of the Interrogatories by this Office, but it was correct that the undersigned had not received them. Exhibit D is the set of Interrogatories Plaintiff sent. Please note that the document was not

provided to the undersigned until April 25, 2018, although it was received in the office on March 9, 2018 (See date stamp of April 25, 2018, Exhibit D).

II. ARGUMENT

Pursuant to Federal Rule of Civil Procedure 37(a), on notice to other parties and all affected persons, “a party may move for an order compelling disclosure or discovery.” Fed. R. Civ. P. 37(a)(1). A motion to compel a discovery response is appropriate when “a party fails to respond that inspection will be permitted - or fails to permit inspection - as requested under Rule 34.” Fed. R. Civ. P. 37(a)(3)(B). Federal Rule 34 requires a party serviced with a document request to “respond in writing within 30 days after being served.” Fed. R. Civ. P. 34(b)(2)(A).

While the Plaintiff did serve the Interrogatories on this Office, they did not get to the undersigned until April 25, 2018. The undersigned did not refuse to answer the questions, he was not aware of them being served on the Office. The Defendants therefore request a 30 day extension to answer. Defendants also request that Plaintiff be ordered to reword Interrogatories 4 and 5. It is unclear what Plaintiff is requesting.

III. CONCLUSION

Based on the foregoing, the Defendants respectfully request that the Motion to Compel be **DENIED**, that Defendants receive an additional 30 days to answer the Interrogatories and that Plaintiff be **ORDERED** to rephrase questions 4 and 5 of the Interrogatories.

Respectfully submitted,

JOSH SHAPIRO
Attorney General

By: s/ Daniel J. Gallagher

DANIEL J. GALLAGHER
Deputy Attorney General
Attorney ID 30451

KELI M. NEARY
Acting Chief, Civil Litigation Section

Office of Attorney General
15th Floor, Strawberry Square
Harrisburg, PA 17120
Phone: (717) 783-2034

dgallagher@attorneygeneral.gov

Date: April 26, 2018

Counsel for Defendants,

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SELBI, RN ANY AND ALL INDIVIDUALS
OR ENTITIES RESPONSIBLE FOR MY
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Defendants :

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CERTIFICATE OF SERVICE

I, Daniel J. Gallagher, Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify that on April 26, 2018, I caused to be served a true and correct copy of the foregoing document titled Brief in Opposition to Motion to Compel to the following:

VIA U.S. MAIL

**William D. Turner, AM-5992
SCI Frackville
1111 Altamont Boulevard**

Frackville, PA 17932

Pro Se Plaintiff

Samuel H. Foreman, Esq.

sforeman@wglaw.com

PA License 77096

Weber, Gallagher, Simpson,

Stapleton, Fires & Newby

Four PPG Place

Pittsburgh, PA 15222

(412)-281-4541 phone

(412)- 281-4547 FAX

s/ Daniel J. Gallagher

DANIEL J. GALLAGHER

Deputy Attorney General

